

## Chapter 17 - HEALTH AND SANITATION

### Section 17.01 Mandatory Recycling.

(a) **Purpose.** The purpose of this ordinance is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in Section 287.11 of the Wisconsin Statutes and Chapter NR544 of the Wisconsin Administrative Code.

(b) **Statutory Authority.** This ordinance is adopted as authorized under Section 287.09(3)(b) of the Wisconsin Statutes.

(c) **Abrogation and Greater Restrictions.** It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.

(d) **Interpretation.** In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR544 of the Wisconsin Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Chapter NR544 standards in effect on the date of the adoption of this ordinance, or in effect on the date of the most recent text amendment to this ordinance.

(e) **Severability.** Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(f) **Applicability.** The requirements of this ordinance apply to all persons within the Town of Turtle.

(g) **Administration.** The provisions of this ordinance shall be administered by the Town Board of the Town of Turtle.

(h) **Definitions.** For the purposes of this ordinance:

(1) “Bi-metal container” means a container for beverages that is made primarily of a combination of steel and aluminum.

(2) “Container board” means corrugated paperboard used in the manufacturing or shipping containers and related products.

(3) “Foam polystyrene packaging” means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

- a. is designed for serving food and beverages.
- b. consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
- c. consists of rigid materials shaped to hold and cushion the packed article in a shipping container.

(4) “Glass container” means bottles, jars and other similar containers but shall exclude drinking glasses, window panes, pyrex or any other similar glass item.

(5) “HDPE” means high density polyethylene, labeled by the SPI Code #2.

(6) “LDPE” means low density polyethylene, labeled by the SPI Code #4.

(7) “Magazines” means magazines and other materials printed on similar paper.

(8) “Major appliance” means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator or stove.

(9) “Multiple-family dwelling” means a property containing five or more residential units, including those which are occupied seasonally.

(10) “Newspaper” means a newspaper and other materials printed on newsprint.

(11) “Non-residential facilities and properties” means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple-family dwellings.

(12) “Office paper” means high grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.

(13) “Other resins or multiple resins” means plastic resins labeled by the SPI Code #7.

(14) “Person” includes any individual, corporation, partnership, association, local government unit, as defined in Section 66.0131(1)(a) of the Wisconsin Statutes, state agency or authority or federal agency.

(15) “PETE” means polyethylene terephthalate, labeled by the SPI Code #1.

(16) “Plastic container” means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

(17) “Post Consumer waste” means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in Section 291.01(7) of the Wisconsin Statutes, waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in Section 289.01(17) of the Wisconsin Statutes.

(18) “PP” means polypropylene, labeled by the SPI Code #5.

(19) “PS” means polystyrene, labeled by the SPI Code #6.

(20) “PVC” means polyvinyl chloride, labeled by the SPI Code #3.

(21) “Recyclable materials” includes lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines, newspaper; office paper; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or other multiple resins; steel containers; waste tires; and bi-metal containers.

(22) “Solid waste” has the meaning specified in Section 289.01(33) of the Wisconsin Statutes.

(23) “Solid waste facility” has the meaning specified in Section 289.01(35) of the Wisconsin Statutes.

(24) “Solid waste treatment” means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. “Treatment” includes incineration.

(25) “Waste tire” means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

(26) “Yard waste” means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

(i) **Separation of Recyclable Materials.** Occupants of single family and two to four unit residences, multiple-family dwellings and non-residential facilities and properties shall separate the following materials from post consumer waste:

- (1) Lead acid batteries.
- (2) Major appliances.
- (3) Waste oil.
- (4) Yard waste.
- (5) Aluminum containers.
- (6) Bi-metal containers.
- (7) Corrugated paper or other container board.
- (8) Foam polystyrene packaging.
- (9) Glass containers.
- (10) Magazines.
- (11) Newspaper.
- (12) Office paper.
- (13) Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins.
- (14) Steel containers.
- (15) Waste tires.

(j) **Separation Exceptions.** The separation requirements of Subsection (i) of this ordinance do not apply to the following:

- (1) Occupants of single family and two to four unit residences, multiple-family dwellings and non-residential facilities and properties that send their post consumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in Subsection (i) of this ordinance from solid waste in as pure of form as is technically feasible.

(2) Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.

(3) A recyclable material for which a variance has been granted by the Department of Natural Resources under the Wisconsin Statutes or the Wisconsin Administrative Code.

(k) **Care of Separated Recyclable Materials.** To the greatest extent practicable, the recyclable materials separated in accordance with Subsection (i) of this ordinance shall be clean and free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions.

(l) **Management of Lead Acid Batteries, Major Appliances, Waste Oil and Yard Waste.** Occupants of single family and two to four unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:

(1) Lead acid batteries shall be managed as follows:

a. Occupants of single family and two to four unit residences, multiple-family dwellings and non-residential facilities and properties who are service recipients under the Town of Turtle's Roadside Recycling and Refuse Collection Program shall place any car and truck lead acid batteries with undamaged casings adjacent to such occupants' recycling bin for collection by the Town's designated hauler; and

b. All other occupants as well as all occupants with other than car and truck lead acid batteries or with lead acid batteries with damaged casings shall take such lead acid batteries to an area retail business that sells vehicle batteries or to the appropriate disposal area at the Rock County Landfill.

(2) Major appliances shall be managed as follows:

a. Occupants of single family and two to four unit residences, multiple-family dwellings and non-residential facilities and properties who are service recipients under the Town of Turtle's Roadside Recycling and Refuse Collection Program shall arrange for the collection of major appliances by the Town's designated hauler; and

b. All other occupants shall arrange for the collection of such items by a licensed hauler or shall take such items to the appropriate area of the Rock County Landfill.

(3) Waste oil shall be managed as follows:

a. Occupants of single family and two to four unit residences, multiple-family dwellings and non-residential facilities and properties who are service recipients under the Town of Turtle's Roadside Recycling and Refuse Collection Program shall store waste oil in leak-proof containers with a maximum volume of one gallon and shall place the containers adjacent to such occupants' recycling bin for collection by the Town's designated hauler; and

b. All other occupants shall arrange for the collection of waste oil by a licensed hauler or shall take such waste oil to a licensed waste oil collection site.

(4) Yard waste shall be managed as follows:

a. All occupants of properties within the Town of Turtle shall keep yard waste out of the trash and shall either take the material to the composting site at the Rock County Landfill or shall manage it on-site.

(m) **Preparation and Collection of Recyclable Materials.** Except as otherwise directed by the Town Board of the Town of Turtle, occupants of single family and two to four unit residences, multiple-family dwellings and non-residential facilities and properties who are service recipients under the Town of Turtle's Roadside Recycling and Refuse Collection Program shall do the following for the preparation and collection of the separated materials specified in Subsection (i)(5) through (15) of this ordinance:

(1) Aluminum containers shall be rinsed free of product residue, placed in the approved recycling bin and placed upon the curb on the day designated for collection.

(2) Bi-metal containers shall be rinsed free of product residue, placed in the approved recycling bin and placed upon the curb on the day designated for collection.

(3) Corrugated cardboard and all other corrugated paper or other container board, shall be free of debris, flattened, cut into squares not greater than 2' x 2', stacked and tied, placed in the approved recycling bin and placed upon the curb on the day designated for collection.

(4) Foam polystyrene packaging shall be contained in an open paper bag or an open corrugated box free of debris, placed in the approved recycling bin and placed upon the curb on the day designated for collection.

(5) Clear, brown and green glass containers and all other glass containers, shall be rinsed free of product residue with all caps removed and discarded. The glass containers shall be placed in the approved recycling bin and placed upon the curb on the day designated for collection.

(6) Magazines shall be free of debris, stacked and tied, placed in the approved recycling bin and placed upon the curb on the day designated for collection.

(7) Newspaper shall be free of debris, stacked and tied, placed in the approved recycling bin and placed upon the curb on the day designated for collection.

(8) Office paper shall be free of debris, stacked and tied or contained in an open paper bag or an open corrugated cardboard box, placed in the approved recycling bin and placed upon the curb on the day designated for collection.

(9) Rigid plastic containers shall be prepared and collected as follows:

a. Plastic containers made of PETE shall be rinsed free of product residue and caps shall be removed and discarded. The containers shall be placed in the approved recycling bin and placed upon the curb on the day designated for collection.

b. Plastic containers made of HDPE shall be rinsed free of product residue and caps shall be removed and discarded. The containers shall be placed in the approved recycling bin and placed upon the curb on the day designated for collection.

c. Unless excluded by specific variances from DNR, plastic containers made of PVC shall be rinsed free of product residue and caps shall be removed and discarded. The containers shall be placed in the approved recycling bin and placed upon the curb on the day designated for collection.

d. Unless excluded by specific variances from DNR, plastic containers made of LDPE shall be rinsed free of product residue and caps shall be removed and discarded. The containers shall be placed in the approved recycling bin and placed upon the curb on the day designated for collection.

e. Unless excluded by specific variances from DNR, plastic containers made of PP shall be rinsed free of product residue and caps shall be placed in the approved recycling bin and placed upon the curb on the day designated for collection.

f. Unless excluded by specific variances from DNR, plastic containers made of PS shall be rinsed free of product residue and caps shall be removed and discarded. The containers shall be placed in the approved recycling bin and placed upon the curb on the day designated for collection.

g. Unless excluded by specific variances from DNR, plastic containers made of other resins or multiple resins shall be rinsed free of product residue and caps shall be removed and discarded. The containers shall be placed in the approved recycling bin and placed upon the curb on the day designated for collection.

(10) Steel containers shall be rinsed free of product residue, placed in the approved recycling bin and placed upon the curb on the day designated for collection.

(11) Waste tires shall be placed upon the curb on the day designated for collection adjacent to the approved recycling bin.

**(n) Responsibilities of Owners or Designated Agents of Multiple-Family Dwellings.**

(1) Owners or designated agents of multiple-family dwellings which are not service recipients under the Town of Turtle's Roadside Recycling and Refuse Collection Program shall do all of the following to recycle the materials specified in Subsection (i)(5) through (15) of this ordinance:

a. Provide adequate, separate containers for the recyclable materials.

b. Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.

c. Provide for the collection of recyclable materials separated from the solid waste by the tenants and the delivery of the recyclable materials to a recycling facility.

d. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare recyclable materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

(2) The requirements specified in paragraph (1) above do not apply to the owners or designated agents of multiple-family dwellings if the post consumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Subsection (i)(5) through (15) of this ordinance from solid waste in as pure a form as is technically feasible.

**(o) Responsibilities of Owners or Designated Agents of Non-Residential Facilities and Properties.**

(1) Owners or designated agents of non-residential facilities and properties which are not service recipients under the Town of Turtle's Roadside Recycling and Refuse Collection Program shall do all of the following to recycle the materials specified in Subsection (i)(5) through (15) of this ordinance:

a. Provide adequate, separate containers for the recyclable materials.



b. Notify in writing, at least semi-annually all users, tenants and occupants of the properties about the established recycling program.

c. Provide for the collection of recyclable materials separated from the solid waste by the users, tenants and occupants and the delivery of the recyclable materials to a recycling facility.

d. Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare recyclable materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

(2) The requirements specified in paragraph (1) above do not apply to the owners or designated agents of non-residential facilities and properties if the post consumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Section (i)(5) through (15) of this ordinance from solid waste in as pure a form as is technically feasible.

**(p) Prohibitions on Disposal of Recyclable Materials Separated for Recycling.** No person may dispose of in a solid waste disposal facility or burn in any solid waste treatment facility any of the materials specified in Subsection (i)(5) through (15) of this ordinance which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

**(q) Anti-scavenging or Unlawful Removal of Recyclables.** It shall be unlawful for any person, unless under contract with or licensed by the municipality, to collect or remove any recyclable material that has been deposited or placed at the curb or in a container adjacent to a home or non-residential building for the purposes of collection for recycling.

**(r) No Dumping.**

(1) It shall be unlawful for any person to dispose of or dump garbage in any street, alley or other public place within the Town of Turtle or in any receptacles or private property without the owner's consent unless it is placed in bags or containers in the manner and at the times specified by this ordinance.

(2) No person shall place for collection any garbage at the curb not owned or occupied by such person.

**(s) Non-disposable Materials.** It shall be unlawful for any person to place for disposal any of the following wastes: hazardous and toxic wastes, chemicals, explosives, flammable liquids, paint, trees and stumps, construction debris, carcasses and medical

wastes. All such wastes shall be taken to a licensed disposal facility for proper disposition.

(t) **Garbage from Outside of Municipality.** It shall be unlawful to bring refuse for disposal (and recyclables) from outside the municipal limits into the Town of Turtle unless authorized by agreement with the municipality.

(u) **Hauler Licensing.** No person shall engage in the business of hauling recyclables within the Town of Turtle without being licensed by the Wisconsin Department of Natural Resources.

(v) **Hauler Restrictions.** Haulers may not dispose in a landfill or burn in a solid waste facility any recyclable materials generated in the Town of Turtle that have been separated for recycling. In addition, haulers shall not compact glass with paper during collection and transport of recyclables to a processing facility or market, and shall keep materials in marketable condition.

(w) **Right to Reject Materials.** Haulers who collect solid waste or recyclables in the Town of Turtle shall have the right to reject or leave at the curb any recyclable material that is not prepared according to the specifications in this ordinance or in educational material provided by the contractor to the service recipients. Materials may also be left if not separated from solid waste, placed in the proper container or are not designated recyclable materials for collection. Haulers also have the right to refuse to pick up any solid waste if it contains recyclable containers and material. In such cases, the hauler or attendant shall notify the generator of the materials about the reasons for rejecting the items in writing. Haulers shall also keep a list of such occurrences and provide it to the Town of Turtle quarterly.

(x) **Hauler Permits.** Haulers who collect solid waste or recyclables in the Town of Turtle for storage, treatment, processing, marketing or disposal shall obtain and maintain all necessary municipal and state permits, licenses and approvals prior to collecting any materials in the Town of Turtle.

(y) **Hauler Records.** The recycling haulers and processors operating in the Town of Turtle shall be required to maintain records and report in writing to the Town Clerk at least twice each year, at such times as shall be designated by the Town Board. Reports shall include: the amount of solid waste and recyclables collected and transported from the Town of Turtle; the amount of solid waste and recyclables processed and/or marketed by item type from the Town of Turtle; and the final disposal location of solid waste and recyclable material. Failure to report shall be cause for the municipality to revoke any license or sever any contract with the hauler/processor.

(z) **Processing Facilities.** Any hauler operating in the Town of Turtle shall not transport for processing any recyclables to a processing facility unless the hauler notifies the Town of Turtle which facility the hauler is using and the facility has self certified with the Wisconsin Department of Natural Resources.

(aa) **Fees for Service Recipients.** The Town Board of the Town of Turtle shall establish fees for service recipients under the Town of Turtle's Roadside Recycling and Refuse Collection Program for the payment of collection services for solid waste and recyclables. Fees shall be assessed on a per unit basis and be charged as a line item on taxes pursuant to Section 66.0627 of the Wisconsin Statutes on a yearly basis.

(bb) **Ownership of Recyclables and Refuse.** Recyclable materials and refuse, upon placement at the roadside, shall remain the property and responsibility of the service recipient. Recyclable materials and solid waste, upon collection by any permitted hauler, shall become the property of the hauler.

(cc) **Additions and Exemptions to Recyclables.** The Town Board of the Town of Turtle reserves the right to designate additional solid waste materials as recyclable or currently collected materials as no longer recyclables in accordance with state law and to either add or delete them from any collection services provided by the municipality or its haulers. The municipality shall provide written notice to its service recipients of this declaration.

(dd) **Collection Schedule.** The Town of Turtle shall establish the time of collection of solid waste and recyclables for all service recipients under the Town of Turtle's Roadside Recycling and Refuse Collection Program and the Town Clerk or the designated hauler shall provide written notice of the collection schedule to all service recipients at least once in the spring and fall of each year and at any time when the collection schedule is changed.

(ee) **Specified Containers.** All service recipients under the Town of Turtle's Roadside Recycling and Refuse Collection Program shall comply with the following requirements:

(1) Solid waste shall be placed for collection in plastic bags and/or standard garbage cans, not to exceed 50 pounds per container or 30 gallons, and contained in a manner to avoid litter.

(2) Recyclables shall be placed in the approved recycling bin except for lead acid batteries and waste oil which shall be placed immediately adjacent to such bin. If there is a greater amount of recyclables than can be contained in the designated bin, those excess materials shall be placed in an open paper bag or an open corrugated cardboard box and set out on top of or adjacent to the recycling bin, clearly separated from the non-recyclable solid waste.

(3) All solid waste and recyclables shall be placed as herein required at the specified collection point no sooner than 24 hours prior to the regularly scheduled collection time or be allowed to remain at the roadside longer than 12 hours thereafter.

(ff) **Placement of Recyclables and Solid Waste for Collection.** Except as otherwise specifically directed or authorized by the Town Board of the Town of Turtle, all service recipients under the Town of Turtle's Roadside Recycling and Refuse Collection Program shall place solid waste and recycling containers at the mailbox adjacent to the premises owned or occupied by the person. Materials shall be placed out for collection according to the scheduled days established by the Town of Turtle.

(gg) **Provide Space for Recycling.** A person in the Town of Turtle owning or occupying a new building or a building that is remodeled or expanded by 50% or more in floor area, shall provide a designated area for the separation, temporary storage and collection of solid waste and recyclables either within or adjacent to the building.

(hh) **Special Materials.** Service recipients under the Town of Turtle's Roadside Recycling and Refuse Collection Program shall contact the designated hauler when they have couches and bulky items and arrangements for collections will be made. Small quantities of building materials (lumber, plaster board, etc.) from household remodeling or repair shall be accepted by the designated hauler if placed in standard garbage cans and if the weight per container does not exceed 50 pounds. All lumber must be cut in lengths not to exceed four feet. Loose building materials shall not be subject to collection by the designated hauler.

(ii) **Enforcement.**

(1) For the purpose of ascertaining compliance with the provisions of this ordinance, any authorized officer, employee or representative of the Town of Turtle may inspect recyclable materials separated for recycling, post consumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multi-family dwellings and non-residential facilities and properties, and any records related to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the Town of Turtle who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper or interfere with such an inspection.

(2) Any person who violates a provision of this ordinance may be issued a citation by the Building Inspector or any Police Officer of the Town of Turtle to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this paragraph.

## **Section 17.02 REGULATION OF RECLAMATION HAULERS**

(a) **Purpose.** The purpose of this ordinance is to prevent the uncontrolled transportation and application or dumping of garbage, sludge, septage or other refuse

which can interfere with the enjoyment of and reduce the value of private property, create safety or health hazards to the residents of the Town, interfere with the comfort and well-being of the people, constitute a public nuisance, and cause damage to the Town's roadways.

(b) **Definitions.** In this ordinance, the following words or phrases have the designated meanings set forth in this section:

(1) "Application" includes, but is not limited to, unloading, throwing away, discarding, emptying, spraying, abandoning, discharging, burying waste, garbage, refuse, septage, or sludge on, into or under any property or lands, whether publicly or privately owned, within the Town of Turtle.

(2) "Garbage" is discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

(3) "Municipality" is any city, village, town or sanitary district.

(4) "Reclamation hauler" is any person or other legal entity who applies waste, garbage, refuse, sludge or septage in the Town of Turtle and who is licensed by the State of Wisconsin for the application of these materials.

(5) "Refuse" is combustible and noncombustible discarded material including, but not limited to, trash, rubbish, paper, wood, metal, glass, plastic, rubber, cloth, ashes, litter, and street rubbish, industrial waste, dead animals, mine tailings, gravel pit and quarry spoils, toxic and hazardous wastes, and material and debris resulting from construction or demolition.

(6) "Septage" is a wastewater or contents of septic or holding tanks, dosing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, privies or portable restrooms as those terms are defined in Chapter NR113 of the Wisconsin Administrative Code or its successors.

(7) "Sludge" is sewage treatment residue in any form whatsoever, whether solid, semi-solid or liquid which has been processed or treated in any way, form or manner.

(8) "Waste" is garbage, refuse and all other discarded or salvageable material, including waste material resulting from industrial, commercial and agricultural operations and from domestic use and public service activities.

(c) **Permit Required.** No reclamation hauler shall apply waste, garbage, refuse, sludge or septage or allow such application within the Town of Turtle unless a permit to engage in such application is first obtained from the Town of Turtle under the conditions prescribed herein. The permit shall be for the calendar year unless otherwise directed by the Town Board. Renewal must be obtained for at least one month before expiration.

(d) **Permit.** A permit to apply garbage, sludge, septage waste, or other refuse within the Town of Turtle shall be obtained from the Town Clerk. The applicant shall supply the following information:

- (1) A description of the material to be transported, applied or dumped;
- (2) The quantity of material to be transported, applied or dumped; and
- (3) A description of the lands on which it will be applied or dumped.

(e) **Notice and Public Hearing.** Before issuing a permit, the Town Board shall hold a public hearing. Notice of such hearing, specifying the time, place and the matter to come before the Town Board shall be given as a Class 2 notice pursuant to Ch. 985 of the Wisconsin Statutes. In addition, if the hearing is in connection with a permit for the application of sludge or treated septage on land within the Town of Turtle, the Town Clerk shall give notice of the hearing in writing to all property owners within 1000 feet of the land in question at least ten days prior to the hearing. Such notice may be given by first class mail, and shall be deemed given when placed in the mail.

(f) **General Regulations.** Reclamation Haulers who are permitted to engage in application operations shall be subject to the following regulations:

(1) The application operations must be conducted in such a way as to not constitute a public or private nuisance.

(2) Reclamation Haulers engaged in application operations must conduct the operations in such a way that dust, dirt, debris, or other materials or substances will not be carried by wind across the boundary of the parcel of land being used for application operations.

(3) Reclamation Haulers engaged in application operations shall observe all applicable state laws and administrative regulations of any state agency which pertain to the subject of this ordinance. No material disposed of on land in the Town of Turtle shall contain hazardous materials as defined by the Federal Conservation and Recovery Act.

(4) Reclamation Haulers must obtain all necessary permits from the Wisconsin Department of Natural Resources including, but not limited to, those required under Chapter NR113 of the Wisconsin Administrative Code or its successors.

(5) No application of garbage, sludge, septage, waste or other refuse shall occur within 500 feet of a residence unless the Reclamation Hauler has the permission of the owner or occupant for application closer to the residence.

(6) Any vehicles used for transportation of garbage, waste, sludge, septage or other refuse must be so designed as to prevent the dropping of any of said materials on the highways or roadways within the Town.

(7) Any garbage, sludge, septage, waste or other refuse dropped on a highway or road within the Town must be removed by the Reclamation Hauler within four hours of the time such material was dropped.

(g) **Permit Fee.** Any reclamation hauler granted a permit under this ordinance shall pay a fee to be determined by the Town Board. Such fee shall be sufficient to compensate the Town for its expenses incurred in administering this ordinance and for any reasonably anticipated road damage resulting from the hauling of garbage, sludge, septage, waste and other refuse.

(h) **Penalties.** Any person, firm, corporation or municipality who shall violate any provision of this ordinance shall be fined by a fine of not less than \$100.00 nor more than \$5,000.00 for each day that the violation continues, or by imprisonment in the County Jail, or by both such fine and imprisonment. The Town may also seek injunctive relief to prevent the continuation of any such violation.

(i) **Enforcement.** In the event the building inspector of the Town of Turtle finds that this ordinance has been violated in any way, he or she shall have the authority to suspend any permit granted hereunder pending review by the Town Board at its next regular meeting.

(j) **Revocation.** Any permit issued hereunder may be revoked after public hearing held upon the publication of a Class 1 notice by the Town Board. Such revocation may occur if any of the conditions necessary for the issuance of the permit or any terms of this ordinance are violated by the person, firm, corporation or municipality holding the permit.

(k) **State Law.** Nothing contained herein shall be deemed to limit or restrict the application of any state law or administrative regulation of any state agency regulating the subject of this ordinance.

(l) **Severability on Conflict.** If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

## **Section 17.03**

## **MINERAL AND MINE ORDINANCE**

(a) **Statement of Purpose.** In order to protect the health, safety, and general welfare of the citizens of Rock County, the Town of Turtle does hereby enact this ordinance to reserve and protect the mineral deposits of the Town of Turtle and to provide methods for the regulation of mineral extraction.

This ordinance recognizes that minerals are fixed in location, are rare, and are nonrenewable in nature. In order to prevent noncompatible land uses from denying the benefits of these materials to the citizens of the Town of Turtle, to protect mineral deposits near urban centers, to prevent unwise patterns of development, to assure growth opportunities and environmental management techniques available, this ordinance is enacted.

(b) **Definitions:**

- (1) Mineral shall mean a naturally occurring element or combination of elements that occur in the earth in a solid state, but shall not include soil.
- (2) Mining shall mean all or part of the processes involved in the extraction and processing of mineral materials.
- (3) Operator shall mean any person or agency either public or private, engaged in or who has applied for a permit to engage in mining, whether individually, jointly, or through subsidiaries, agents, employees, or any person engaged in managing or controlling a mining operation.
- (4) Structure shall mean any building, whether for human habitation or not.
- (5) Board shall mean the Town Board of the Town of Turtle.
- (6) Waste shall mean all accumulation of waste mined material and overburden placed on the land surface, whether above or below water.
- (7) Person shall mean an individual, partnership, cooperative, corporation or agency, either public or private, or any group of persons, whether incorporated or not.
- (8) Reclamation Plan shall mean the operator's proposal for the reclamation of the project site which must be approved by the Town Board under this ordinance prior to the issuance of the mining permit.



- (9) **Mining Permit** shall mean the Town mining permit required by this ordinance. It does not replace or otherwise eliminate the need to apply for state mining permits such as are required under the Wisconsin Statutes.

(c) **Mining Districts.** Mineral extraction or mining shall only be conducted in a Special Purpose District (SP) as provided by the Town of Turtle Zoning Ordinance.

(d) **Mining Permit Required.** In order to assure that mineral deposits are protected from noncompatible adjacent land uses and that mineral extraction operations are properly controlled, mineral extraction or mining shall only be permitted in a mining district and then only pursuant to a mining permit issued by the Town Board of the Town of Turtle.

(e) **Application for a Regular and Temporary Mining Permit.**

(1) The application for a regular mining permit shall be accompanied by information which shall include the following:

- a) The names and addresses of the applicant, operator, and principal officers, and resident agent of the business if other than a single proprietor.
- b) A legal description and map and/or aerial photograph of the tract or tracts of land to be involved and affected by the proposed operation.
- c) The map and/or aerial photograph and accompanying materials shall indicate:
  - (i) Boundaries of the affected and adjacent lands;
  - (ii) Surface drainage of the affected land;
  - (iii) Location and names of all streams, roads, railroads, utility lines and pipelines on or immediately adjacent to the area;
  - (iv) Location of all structures within one thousand feet of the outer perimeter of the area, present owners and occupants of such structures;
  - (v) Names of the owners of the affected and adjacent lands;
  - (vi) Proposed location, area extent, and depth of intended mine excavation;

(vii) Proposed location of the mine, waste dumps, tailing ponds, sediment basins, stockpiles, structures, roads, railroad lines, utilities or other permanent or temporary facilities used in mining;

(viii) Estimated depth to groundwater;

- d) A description of the mining and processing equipment to be used;
- e) A description of measures to be taken to control noise and vibrations from the operations;
- f) A description of the anticipated hours of operation;
- g) A description of measures to be taken to screen the operation from view;
- h) Proposed primary travel routes to be used to transport the mined material to processing plants or markets away from the property;
- i) A description of the plans for topsoil storage;
- j) A reclamation plan which shall include:
  - (i) A map or plan and description of the proposed reclamation including grading, final slope angles, highwall reduction, benching and terracing of slopes, slope stabilization and revegetation where applicable, and erosion control, and alternative future land uses;
  - (ii) Description of topsoil stripping and conservation during storage and replacement;
  - (iii) Plan and description of anticipated final topography water impoundments and artificial lakes on the property;
  - (iv) Description of plans for disposition of surface structures, roads, and related facilities after cessation of mining;
  - (v) A plan for disposal or treatment of any harmful or toxic materials found in any formations penetrated by the mining operation or produced during the processing of minerals on the affected land, and of chemicals or materials used during the mining or processing operations;
  - (vi) The estimated cost of reclamation for the total project.

- k) The duration of the lease, if any, on the land;
  - l) A timetable of the commencement, duration, and cessation of the mining operations;
  - m) Any and all mining permits held by the applicant within the state;
  - n) Such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area, including the mining reclamation plan;
  - o) The signature of the applicant and date of signature;
  - p) The application shall be accompanied by a fee, the amount of which shall be determined by the Town Board.
- (2) The Board may vote to waive or modify any requirement for information requested under the terms of this Section.
- (3) Unless the Board votes to waive or modify any requirements of this Section, the Application shall not be accepted or deemed to be accepted unless all of the information required by this section is supplied by the applicant. In the case of an incomplete application, the review and decision on the application shall not commence and no mining permit shall be issued.
- (f) **Review and Decision on the Application for a Mining Permit.** A permit for mineral extraction may be approved by the Town Board pursuant to the following procedures:

- (1) Upon receipt of the application and support information, the Board shall:

(a) Review the application for completeness and accuracy. The Board may request assistance from the Planning Commission of the Town of Turtle.

(b) The Town Board shall hold a public hearing within 90 days of the date a complete application is filed with the Town. Notice of the public hearing shall be published as a Class 2 notice under Chapter 985 of the Wisconsin Statutes. Notice of the time, place, and purpose of such public hearing shall also be sent to the applicant. If the proposed mining operation is within one-fourth mile of any other jurisdiction, the clerk of that governmental unit shall also be notified. All owners of land, as determined

by owners of record in the current tax description records, within 1000 feet of the proposed site shall also be notified.

(c) The public hearing may be recessed for a reasonable amount of time, as determined by the Board, if the Board feels that additional information or study is needed. The hearing shall be conducted and a record of the proceedings shall be made according to procedures as the Board shall prescribe.

(2) The Board may approve an application for a mining permit when the application, in addition to all other requirements, meets the following standards listed below:

(a) That the establishment, maintenance, or operation of the mining operation shall not endanger the public health, safety or general welfare;

(b) That the establishment, maintenance, or operation of the mining operation will not substantially affect the existing use of adjacent property, and will not have a substantially adverse effect on the long-term future use of the adjacent property.

(c) That adequate utilities, access roads, drainage, traffic plans, and other site improvements will be provided;

(d) That the mining operation shall conform to all governmental regulations;

(e) That the mining operation shall conform to applicable air and water quality standards;

(f) That the noise, vibration, and dust levels at the property lines be within the levels determined by the Board;

(g) That an undeveloped buffer zone be provided, commencing not less than 20 feet from the property line of the mining site or such other distance as the Board finds necessary for the protection and safety of adjacent property from mining;

(h) Where deemed practicable and necessary by the Board, an earth bank or vegetative screen shall be erected and/or maintained to screen the mining operation from view;

(i) Each mining operation shall install a security gate or gates at entrances with warning signs as deemed necessary by the Board.

(j) Such other standards that the Board deems necessary.

- (3) The Board may grant, grant with conditions attached, or deny the application for a mining permit within a reasonable time after the public hearing. Prior to granting, granting with conditions attached, or denying the mining permit, the Board shall make findings of fact based upon the evidence presented that the standards of this ordinance will or will not be met.

(a) Upon approval of the application, the Board shall notify the applicant in writing of the decision and establish the amount of bond necessary to assure reclamation of the affected land according to the reclamation plan. Upon receipt of the established bond from the applicant, the Board shall issue a mining permit. Whenever the Board has a reasonable basis to find that a permit holder may have committed a violation of this permit or this ordinance, it may proceed with 1) forfeiture action in Municipal Court, 2) Circuit Court action for injunction, forfeiture, or compliance, 3) revocation of the permit; and/or 4) any combination of the three actions above. No permit may be revoked without a public hearing after reasonable notice to the public and the permit holder.

The applicant shall commence significant development of mining operations within two years of the date of issuance of such permit. At the written request of the Board the applicant shall submit proof in writing of the significant development of mining operations.

(b) The Board may approve the mining permit with conditions attached to the permit in writing. Such conditions may cover such subjects as control of operations, bonding and surety mechanisms, periods of operation, access, and any other standard or requirement listed under the terms of this ordinance. A violation of the conditions attached to this permit shall be a violation of this ordinance and shall be subject to the penalty provisions contained in this ordinance. Any conditions attached to the mining permit shall apply to heirs, assigns, transferees, or successors in interest to the applicant for such permit.

(c) No application which has been denied may be resubmitted for six months from the date of denial, except for new evidence, change of conditions, or such other reason as the Board may accept.

(g) **Bonding and Other Security Mechanisms.**

- (1) Prior to the issuance of a mining permit, the operator, if required by the Board, shall deposit with the Board a bond conditioned on faithful performance of all the requirements of this ordinance and all the rules of the Board. The bond shall be in an amount and of a kind to be determined by the Board and shall cover the costs of reclamation.
- (2) Any operator who obtains a mining permit from the Board on more than one project site within the Town may elect, at the time the second or any subsequent site is approved, to post a single bond in lieu of separate bonds on each site. A single bond so posted shall be in an amount equal to the estimated cost of reclaiming all sites the operator has under each of the operator's mining permits. When an operator elects to post a single bond in lieu of separate bonds for individual sites, the separate bonds shall not be released until the new bond has been accepted by the Town Board.
- (3) The Board shall review the bond from time to time and may request the operator to increase the amount of the bond if the Board does not believe it is sufficient.
- (4) The operator may file with the Board a request for release of bond at such time as the operator feels that all reclamation has been satisfactorily completed on any or all of the affected lands. Such request for release of bond shall include the name and address of the operator, the permit number, a legal description of the area, and a final reclamation report on the area for which the release of bond is requested. The final reclamation report shall contain the following information:
  - (a) Name and address of the operator, permit number, and legal description of the land;
  - (b) A map and/or aerial photograph on which the operator shall indicate the final contours, slope angles of the affected land, surface water drainage and ponds, and the locations of any remaining structures and roads;
  - (c) A description of reclamation activities leading to completion of the approved reclamation requirements including: topsoil disposition and thickness, revegetation practices, disposition of waste dumps, tailing ponds, and surface structures, haulage and access roads, sediment control practices, and maximum depth of artificial lakes or ponds;

(d) Operators of all underground mineral extraction operations shall also submit a complete plan of all entries, workings, and levels as well as a description of the sloping and ground support methods at the cessation of operations;

(e) Such other pertinent information and maps as may be required to evaluate the completion of reclamation and the advisability of returning the operator's bond.

Final release of the bond shall not occur until the operator files a final reclamation plan under the terms of this ordinance.

(5) Upon receipt of a request for release of the bond, the Board shall:

(a) Inspect the designated lands;

(b) Publish a Class 2 notice under Chapter 985 of the Wisconsin Statutes that the release of bond application is pending and specify a 30-day period for filing of complaints with the Board against the release of bond;

(c) Publish a Class 2 notice under Chapter 985 of the Wisconsin Statutes of a public hearing at such time and place as the Board determines to consider the request for release of bond and make a determination on the validity of complaints. The notice required in part (5)(b) of this section and this subsection may be published at the same time, but in all cases the public hearing shall be held at least 30 days after the notice required in part (5)(b) of this section;

(d) If the reclamation is found to be satisfactory and all valid complaints have been satisfied, the Board shall release the appropriate amount of bond 30 days after the public hearing.

(e) If the reclamation is found to be unsatisfactory, the Board shall so notify the operator by registered mail setting forth the reasons for denial of release of bond and the corrective action necessary for release of bond.

(6) Nothing in this section shall be construed to infringe upon the Board's authority to take appropriate action on bonds, including forfeiture of all or part of the bond for cause. Forfeiture shall not be approved by the Board unless there has been publication of notice and a public hearing held consistent with the terms of this ordinance.

- (7) The mining operator shall maintain a public liability insurance policy issued by an insurance company authorized to do business in the State of Wisconsin which affords personal injury and property damage protection for any individual and for adjacent property for the term of the permit or permit renewal. The total amount of the insurance shall be determined by the Board.
  - (8) Each operator shall notify the Board of cessation of all mining activity at the project site no later than 60 days before operations are to cease. Such notice shall indicate the operator's name, address, and permit number.
  - (9) The requirements of this section shall apply to the successor in interest to the operator upon the sale or transfer of assets of the mining operation.
- (h) **Existing Mining Operations and Expansion of Mining Activities.**
- (1) Any operator producing mineral materials from a mining operation at the date of enactment of this ordinance shall not need a mining permit to continue mining.
  - (2) Any operator who holds any mining permit issued under the terms of this ordinance or who operates a pre-existing mine under paragraph (1) of this section shall apply for a mining permit if:
    - (a) the mining and processing equipment used in the operation changes substantially; or
    - (b) the normal hours of operation increase substantially; or
    - (c) the amount of noise, vibration, and dust from the operation increases substantially; or
    - (d) the extent of the area of the mining operation increases beyond the limits of land designated or held for that purpose at the time of adoption of this ordinance; or
    - (e) any other substantial increase in the mining or method of operations at the mining site, as determined by the formal decision of the Board.
  - (3) The Board, when considering the application for a mining permit, shall consider the effect of the total mining operation, including reclamation of the entire site, to the extent feasible.



(i) **Change, Renewal, and Transfer of Mining Permits.**

- (1) An operator holding a mining permit may at any time apply to the Board for amendment, cancellation, renewal, transfer or change in a the mining permit or reclamation plan, provided that:
  - (a) This section shall not include an expansion of a mining operation which is subject to another section of this ordinance.
  - (b) This section shall not include a removal of mined land from an approved permit, which is subject to another section of this ordinance.
  - (c) This section shall not include a release of a bond or other security mechanism, which is subject to another section of this ordinance.
- (2) The application for the amendment, cancellation, or change shall be submitted to the Board which shall approve, approve conditionally, or deny the application subject to the following standards:
  - (a) The operator shall identify the tract of land and shall supply the permit number of the project to be removed from the project site or to be affected by any change in the mining operation or reclamation plan;
  - (b) If the application is to change a permit for a tract of land which has had no mining operations conducted upon it, the Board shall ascertain by inspection that no mining has occurred. After so finding, the Board shall order the release of any bond or security instrument and shall amend the mining permit to reflect the removal of the unmined land from the project site;
  - (c) Such other standards consistent with the terms of this ordinance which provide for proper amendment, cancellation, and change to the permit.
- (3) No operation shall assign, sell, lease or transfer in any manner any rights granted under a mining permit until the succeeding operator has complied with all the requirements of this ordinance, including all requirements of the reclamation plan and the filing of a bond of like amount with the Board. Upon compliance with the requirements of this ordinance, the Board shall release the first operator from the requirements of this ordinance, including any bond, and transfer the permit to the successor operator.

- (4) Any application granted with conditions attached under the terms of this section shall have the conditions attached in writing to the document of approval. Such conditions may cover any standard or requirement listed in this ordinance. A violation of the conditions shall constitute a violation of this ordinance, subject to penalties listed in this ordinance.

(j) **Inspections.**

- (1) Upon issuance of a mining permit, the Board or its approved agents may inspect the project site to determine compliance with the requirements of this ordinance. Inspections may also include the required records of a mining operation.
- (2) Such inspection shall be at reasonable times with notice provided to the operator.

(k) **Penalties.**

- (1) Whenever the Board finds a violation of this ordinance at a mining operation in the Town of Turtle, including unapproved deviation from the reclamation plan, it shall be recorded and the Board shall send the operator by registered mail an order specifying the nature of the violation, time of violation, and corrective steps necessary to achieve compliance with this ordinance.
- (2) The Board shall cancel the mining permit held by a mining operator who fails to comply with the order within 30 days after the order is served or such longer time as is contained in the order.
- (3) Any person, firm, corporation, cooperative, operator, or any other group of persons convicted in a court of law of engaging in a mining operation without a valid permit from this jurisdiction shall be required to forfeit not less than \$250.00 nor more than \$500.00 per day for each and every day the operation is found to be in violation of this ordinance.
- (4) Compliance with the terms of this ordinance may also be enforced by injunctive order at the suit of the Turtle Town Board.

(l) **Explosives and Blasting Agents.** The storage, handling and transportation of explosives, as defined in Chapter Ind. 5 of the Wisconsin Administrative Code, on the site of the mine shall be governed by Wisconsin Administrative Code Ind. 5. All persons preparing explosive charges or conducting blasting operations must be licensed pursuant to Section Ind. 5.12.

(m) **Bonding Roadways.** All persons licensed to conduct mining operations in the Town of Turtle shall furnish to the Town, on request, a bond for road repair or replacement which will indemnify the Town from damages to Town roads from mining operations of the permit holder. The amount of the bond shall be determined by the Town Board. Such a roadway bond may be in addition to any other bond furnished under this ordinance. The road repair indemnification may also be taken from any other bond filed under this ordinance.

(n) **Modifications.** Any future amendments, revisions or modifications of the Wisconsin Statutes and Wisconsin Administrative Code incorporated herein are intended to be made part of this code in order to secure uniform statewide regulation of the activities defined herein.

(o) **Conformity.** The Town Board in adopting this ordinance has the intention of drafting its provisions to be in strict conformity with the state statutes. It is the intention of the Town Board that courts will construe this ordinance to be in strict conformity unless the language compels a different construction.

(p) **Severability.** It is the intention of the Town Board that each section, paragraph, sentence, clause and provision of this ordinance is severable and if any provision shall be held unconstitutional or invalid for any reason, such decision shall not affect the remainder of the ordinance nor any part thereof other than that affected by such